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10/527,138	03/08/2005	Friedrich Ackermann	WP 21387 US	9514
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ROCHE DIAGNOSTICS OPERATIONS INC. 9115 Hague Road Indianapolis, IN 46250-0457			EXAMINER	
			RUTKOWSKI, JEFFREY M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,138	Applicant(s) ACKERMANN ET AL.
	Examiner JEFFREY M. RUTKOWSKI	Art Unit 2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 May 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 17-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 17-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 May 2008 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1668) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-16 have been cancelled.

Priority

Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Germany on 09/14/2002.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. **Claims 17-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ee et al. (US Pat 6,848,104), hereinafter referred to as Van Ee in view of Dorfe et al. (US Pat 5,204,669), hereinafter referred to as Dorfe, Croslin et al. (US Pat 5,737,319), hereinafter referred to as Croslin and La Croix (US Pat 7,216,090).

4. For claims 17, 20-22, Van Ee teaches a discovery subsystem. The discovery subsystem discovers the availability and communication capability of environmental devices. The discovery subsystem can be used to control and/or monitor an associated device's power consumption. Discovery subsystem functions can be invoked through polling mechanisms or in response to a triggered event [col. 18 lines 35-58]. Van Ee does not disclose what is included in a triggered event. La Croix expands on the teachings of Van Ee by disclosing a triggered event includes the turning on and/or off of a device [col. 14 lines 50-55] (claim 17: interrupting a contact of a module to the central unit; restoring the interrupted contact; claim 21: wherein the contact between a module and the central unit is interrupted or restored by interrupting or restoring a communication line; claim 22: wherein the contact between a module and the central unit is interrupted or restored by interrupting or restoring the power supply). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use an on/off power event as a trigger in Van Ee's invention since the change in power consumption would trigger the discovery subsystem to determine a new topology. Van Ee teaches environmental devices in an active environment can also become "not discovered" [col. 18 lines 58-63] (comparing the data that were transmitted before the contact was interrupted with the data that were transmitted after interruption of the contact and determining the topology of the modular analytical system on the basis of the comparison, wherein the method steps c to e are repeated with at least one other module until sufficient information is available from the comparison to calculate the topology). Van Ee does not teach contacting of daisy chained data storing modules. Dorfe teaches the contacting data storing modules limitation absent from the teachings of Van Ee by disclosing at least one peripheral communicates with a programmable controller to receive an address

assignment (contacting several modules which store data in a memory with a central unit) via daisy chained control lines 18 [**col. 5 lines 15-20, 50-60 and figure 1**] (claim 17: wherein at least two modules are connected in series; claim 20: wherein the contacting between a module and the central unit has a linear topology). It would have been obvious to a person of ordinary skill in the art at the time of the invention to contact daisy chained data storing modules in Van Ee's invention to allow the discovery module to create an accurate topology by gathering information from all devices in an active environment. Van Ee does not teach the transmittal of stored information to a central unit. Croslin teaches the transmittal of stored information absent from the teachings of Van Ee by disclosing network elements that report state information to an audit device [**col. 8 lines 17-22**] (transmitting the stored data of the modules that are directly or indirectly contacted with the central unit to the central unit; transmitting the stored data of the modules to the central unit). It would have been obvious to a person of ordinary skill in the art at the time of the invention to transmit device information to a central unit in Van Ee's invention as a way to notify a user of a fault in a particular device.

5. For **claim 18**, which depends from **claim 17**, Van Ee teaches devices implementing the discovery subsystem include devices that have the ability to store information for archival retrieval [**col. 8 lines 25-30**] (wherein the data are stored in a permanent memory).

6. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ee in view of Dorfc, Croslin and La Croix as applied to **claim 17** above, and further in view of Koelzir (US Pg Pub 2004/012249).

7. For **claim 19**, which depends from **claim 17**, the combination of Van Ee, Dorfc, Croslin and La Croix do not disclose the use of a star topology. Koelzir teaches the star topology

limitation absent from the teachings of Van Ee, Dorfe, Croslin and La Croix by disclosing a Controller Area Network (CAN) arranged in a star topology [0069] (wherein the contacting between several modules and the central unit has a star-shaped topology and the central unit can discriminate between the arms of the star by specifically interrupting the contacts to the individual arms). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use a star topology in Van Ee's invention since a single device is used to collect network information.

8. **Claims 23-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ee in view of Dorfe, Croslin and La Croix as applied to **claim 17** above, and further in view of Kodosky et al. (US Pat 7,062,718), hereinafter referred to as Kodosky.

9. For **claims 23 and 24**, which depend from **claims 17 and 23** respectively, Van Ee teaches information gathered from the environmental devices is grouped (clustered) according to functional elements to be access by a user [**abstract**]. Van Ee does not teach the topology is displayed graphically. Kodosky teaches the graphical display of topological information absent from the teachings of Van Ee by disclosing a hierarchical system view [**figure 16**] with device and program icons accessed by a user allowing the user to configure and/or manage distributed systems [**abstract**] (claim 23: wherein the topology of the analytical system is displayed graphically on a screen; claim 24: wherein operating instructions are communicated to the user which on the screen are graphically allocated to a module). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use a topological graphical display in Van Ee's invention to allow a user to make sure any changes needed to be made are being made to the correct device.

10. **Claims 25 and 28-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorfc in view of Van Ee.

11. For **claim 25**, Dorfc teaches at least one peripheral communicates with a programmable controller unit (central unit) to receive an address assignment via daisy chained control lines **18** [**col. 5 lines 15-20, 50-60 and figure 1**] (a central unit which is contacted with several modules, wherein at least two of the modules are connected in series and the modules each comprise a memory to store data). The control signals are transmitted over the control lines when an address needs to be assigned to a function module **16** [**col. 6 lines 15-25**] (a switch which can be controlled by a computer unit in such a manner that the contact of a module to the central unit can be interrupted and restored again, wherein the computer unit comprises). The programmable controller unit **12** comprises a programmable controller (control unit to control the switch) [**figure 2**]. The controller uses information transported from the last function module to determine the address and the number of connected function modules [**col. 7 lines 30-34**] (a memory to register the data of the modules). Dorfc does not teach the calculation of topology information. Van Ee teaches the topology calculation absent from the teachings of Dorfc by disclosing environmental devices in an active environment can also become "not discovered" [**col. 18 lines 58-63**] (a computing unit to calculate the topology of the analytical system on the basis of a comparison of data that were registered before interrupting a contact between the central unit and a module with data that were registered after interruption of the contact). It would have been obvious to a person of ordinary skill in the art at the time of the invention to calculate topology information in Dorfc's invention to determine if a node had faulted.

12. For **claim 28**, which depends from **claim 25**, Dorfe does not teach the use of type names.

Van Ee discloses the use of type names absent from the teachings of Dorfe by disclosing devices discovered on a network can be identified by name (i.e. TV, VCR) [figure 4] (wherein the data comprise a type name to identify a module). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use type names in Dorfe's invention to make the system more "user friendly".

13. For **claims 29 and 31**, which depend from **claims 25 and 30 respectively**, Dorfe teaches the program controller unit and the function modules are connected via lines [figure 1] (wherein the contact between a module and the central unit is via a line).

14. For **claim 30**, which depends from **claim 29**, Dorfe teaches the programmable modules and the programmable controller are electrically interconnected [**col. 5 lines 32-35**] (wherein the modules are supplied with power from the central unit via a line).

15. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorfe in view of Van Ee as applied to **claim 25** above, and further in view of Koelzir.

16. For **claim 26**, which depends from **claim 25**, the combination of Dorfe and Van Ee do not disclose the use of a Controller Area Network (CAN). Koelzir teaches the CAN limitation absent from the teachings of Dorfe and Van Ee disclosing a Controller Area Network (CAN) arranged in a star topology [**0069**] (further comprising a CAN-bus). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use a CAN bus in Dorfe's invention to allow for arbitration free transmission between nodes.

17. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorfe in view of Van Ee as applied to **claim 25** above, and further in view of Kodosky.

18. For claim 27, which depends from claim 25, the combination of Dorfe and Van Ee do not disclose the use of Transmission Control Protocol over Internet Protocol (TCP/IP). Kodosky teaches the TCP/IP limitation absent from the teachings of Dorfe and Van Ee by disclosing TCP/IP is used between two devices to transfer information [col. 38 lines 60-65] (wherein a TCP/IP is used as the protocol). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use TCP/IP as a communication protocol in Dorfe's invention to make use of a well-known standardized communication protocol.

Response to Arguments

19. **Argument:**

LaCroix is directed to routing promotion content files to groups of end node devices having the same or similar device attributes (e.g., data storage capacity) called transmission groups. The activation trigger event described at col. 14, lines 50-55 for delivery of a particular promotion (i.e. advertisement) to an end node device and the duration of the promotion can include, inter alia, a power event (e.g. OFF/ON). This teaching does not however fulfill the deficiencies of Van Ee as one of skill in the art would not consider a power event in an end node device as an activation trigger event for the type and duration of a promotion to be sent to the end node device as relevant to the present invention.

20. **Response:**

Van Ee discloses discovery functions can be performed in response to selected (trigger) events. Additionally, Van Ee suggests it is possible for a node to fail, become "not discovered", in an active environment [col. 18 lines 48-52 and 57-60]. LaCroix cures Van Ee's deficiency by disclosing a trigger event that is caused by a power event [col. 14 lines 50-55].

21. The Examiner also feels that LaCroix is relevant to the present invention because the present invention is not limited to any type of information or data [Specification, page 6, 3rd paragraph].

22. **Argument:**

Van Ee and LaCroix either alone or in combination, do not teach or suggest a method for determining the topology of modules in a modular analytical system comprising, inter alia, interrupting a contact of a module to the central unit transmitting the stored data of the modules to the central unit, restoring the interrupted contact, and comparing the data that were transmitted before the contact was interrupted with the data that were transmitted after interruption of the contact and determining the topology of the modular analytical system on the basis of the comparison. Van Ee and/or LaCroix simply don't do this and therefore cannot be relied upon in support of the instant rejection.

23. **Response:**

Since devices in Van Ee's invention can become "not discovered", which suggests the device was previously discovered, and discovery functions can be invoked after a trigger event, Van Ee does suggest some type of topological comparison is being performed.

LaCroix discloses power event based triggers [col. 14 lines 50-55].

Since the transmitting of stored data feature was cited as being taught by Croslin, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

24. **Argument:**

Van Ee does not teach a computing unit that calculates the topology of an analytical system, but a tasking software system which provides for disabling or otherwise rendering irrelevant any objects: associated with an environmental devices, so that the objects neither confront the user nor consume the limited dimensions of the screen.

25. Response:

Since devices in Van Ee's invention can become "not discovered", which suggests the device was previously discovered, and discovery functions can be invoked after a trigger event, Van Ee does suggest some type of topological calculation is being performed.

26. Applicant's arguments filed 05/21/2008 have been fully considered but they are not persuasive, for the reasons stated above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2619

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY M. RUTKOWSKI whose telephone number is (571)270-1215. The examiner can normally be reached on Monday - Friday 7:30-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey M Rutkowski
Patent Examiner
08/04/2008

/Hassan Kizou/
Supervisory Patent Examiner, Art Unit 2619